

Court of Appeals, State of Michigan

ORDER

Deon Anthony Davis v Southeastern Michigan Health Assn

Docket No. 272739

LC No. 06-610265-NO

Christopher M. Murray
Presiding Judge

Kirsten Frank Kelly

Karen M. Fort Hood
Judges

The Court orders that the motion to waive the requirements of MCR 7.209 is GRANTED.

The application for leave to appeal is DENIED for failure to persuade the Court of the need for immediate appellate review.

The motion to stay is DENIED.

MURRAY, P.J. (*concurring*).

I concur in the order denying leave to appeal because the record reflects that the learned trial court judge was very aware of the facts and law, and imposed sanctions that were reasonably tailored to remedy the improper action of plaintiff's counsel and to act as a deterrent to similar future actions. Such sanctions were therefore not an abuse of discretion, *Elezovic v Ford Motor Co*, 472 Mich 408, 419; 697 NW2d 851 (2005), particularly where no prior order was violated. Nevertheless, denial of leave to appeal in no way diminishes the seriousness of plaintiff's counsel's actions, acts that once again could have just as easily led to dismissal of another of his client's cases for discovery abuses. This misconduct not only may have been a violation of the rules of professional conduct but it clearly violated the unwritten professional rules practicing lawyers routinely follow every day in Michigan. There was simply no justification or excuse for plaintiff's counsel's conduct.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAR 16 2007

Date

Sandra Schultz Mengel
Chief Clerk